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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/469,530	12/22/1999	CHRISTIAN DAMPEIROU	GEI-075	5073

20311 7590 11/12/2002

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EXAMINER

BERMAN, ALYSIA

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 11/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/469,530

Applicant(s)

DAMPEIROU ET AL.

Examiner

Alysia Berman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-26,31,33,35,36 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-26,31,33,35,36 and 38 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 21.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Prosecution Application***

The request filed on June 20, 2002 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/469,530 is acceptable and a CPA has been established. An action on the CPA follows. The amendment filed April 11, 2002 has been entered. Claims 20, 22, 24, 26 and 36 have been amended. Claims 27, 32 and 34 have been canceled. Claims 20-26, 38-31, 33, 35 and 36 are pending.

### ***Specification***

The amendment filed April 11, 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material that is not supported by the original disclosure is as follows: All ranges are in % by weight.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

In view of Applicant's remarks and upon further consideration of the specification and claims, the 35 U.S.C. 112, 1<sup>st</sup> paragraph rejections are withdrawn. It appears that the specification provides support for the amount of the specific ingredients claimed in weight percent ranges.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 20-26, 28-31, 33, 35 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20 and 22 recite the limitation "the active ingredients". There is insufficient antecedent basis for this limitation in the claim. Claim 20 recites "active ingredient" in the singular in line 3, which implies only 1 active ingredient. Does Applicant intend to claim a composition comprising one active ingredient or more than one?

Claim 20 is indefinite because "*Alcaemilla*" and "*Slavia*" appear to be misspelled. It is believed that the correct spellings are "*Alchemilla*" and "*Salvia*". Correction is required.

Claim 20 is indefinite because it is unclear what Applicant intends to encompass by "*Slavia sciara*". The Examiner was unable to find any other reference to this plant in the literature. Therefore, the plant could not be identified. It is requested that Applicant review all of the scientific names of the plants to determine that they are correct and provide additional information that would add in identification of the plants.

Claim 20 is indefinite because it is unclear what Applicant intends to have applied to a piece of adhesive fabric attached to an item of clothing. Does Applicant intend that the composition is applied to the adhesive fabric or that the active ingredient is applied to the adhesive fabric?

Claim 22 is vague and indefinite because it recites Markush language for the member in part (b) but only recites one item, a stocking-stitch casing of anallergic

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polyurethane permeable to the air. Did Applicant omit other items that could be the member or did Applicant intend for the member to be only a stocking-stitch casing as claimed?

Claim 22 is indefinite because it is unclear what a stocking-stitch casing encompasses. This is not a recognized term of art and the specification does not provide an explanation or definition of the term.

Claims 28 and 35 are indefinite because they depend from canceled claims. It is unclear what Applicant intends to claim.

This application is replete with 35 U.S.C. 112 issues. The above are just some examples. Applicant is required to review all of the claims for 35 U.S.C. 112 issues and make appropriate corrections.

### ***Claim Objections***

Claim 23 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 23 requires the limitation of an extract of red clover (*Trifolium pratense*), which is already required in claim 20.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alysia Berman whose telephone number is 703-308-

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4638. The examiner can normally be reached Monday through Friday between 9:00 am and 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan, can be reached on 703-305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 or 703-872-9307 for after-final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234 or 703-308-1235.



Alysia Berman  
Patent Examiner  
October 28, 2002



RUSSELL TRAVERS  
PRIMARY EXAMINER  
GROUP 1200